

Message Text

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PAGE 01 USBERL 01472 161203Z

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

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FM USMISSION USBERLIN

TO AMEMBASSY BONN PRIORITY

INFO SECSTATE WASHDC 2806

AMEMBASSY BERLIN UNN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION USNATO

USMISSION USEC BRUSSELS

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E.O.11652: GDS

TAGS: PGOV, PFOR, WB, GW

SUBJECT: BERLIN AND DIRECT ELECTIONS TO EUROPEAN PARLIAMENT

REFS: A) EC BRUSSELS 6907, B) BONN 11595, C) USBERLIN 1458

1. IN EVENT EC'S COREPER DECIDES THAT COMMUNITY FOREIGN MINISTERS SHOULD IMPLEMENT HEADS OF STATE DECISION ON DIRECT ELECTION OF EUROPEAN PARLIAMENT BY COUNCIL REGULATION AT JULY 19-20 MEETING RATHER THAN BY FORMAL INTERNATIONAL CONVENTION BETWEEN EC MEMBER STATES (REFS A AND B), SOME CHANGES WOULD BE NECESSARY IN DRAFT BK/L ON SPECIAL BERLIN SITUATION (REF C). SITUATION WOULD TO EXTENT BE ANALOGOUS TO THAT DEALT WITH BY ALLIES IN 1975 WHEN EC COUNCIL GAVE LEGAL FORM TO DECISION TO ESTABLISH EUROPEAN VOCATIONAL CENTER BY MEANS OF REGULATION. AT THAT TIME ALLIES ISSUED BK/L(75)3 STATING THAT KOMMANDATURA HAD RECEIVED COPY OF REGULATION WHICH WAS SUBMITTED TO IT IN ACCORDANCE WITH ESTABLISHED PROCEDURES AND RAISED NO OBJECTION TO ESTABLISHMENT OF VOCATIONAL

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PAGE 02 USBERL 01472 161203Z

CENTER IN WESTERN SECTORS. IN BK/L(75)17 ISSUED

SAME DAY, ALLIES ADVISE SENAT THAT IT COULD PUBLISH COUNCIL REGULATION IN BERLIN GAZETTE THUS GIVING FINAL LEGAL EFFECT TO IT IN CITY. POINT OF BK/O AND BK/L WAS TO MAKE CLEAR THAT, ANALOGOUS TO TREATY PROCEDURE, EC COUNCIL REGULATION WAS NOT DIRECTLY APPLICABLE IN BERLIN BUT BECAME BINDING IN CITY ONLY AFTER ALLIED REVIEW AND PUBLICATION IN BERLIN GAZETTE.

2. WE ARE CONCERNED THAT, UNLIKE CASE WITH CONVENTION WHICH WOULD REQUIRE RATIFICATION AND WHICH WOULD BE SUBMITTED TO ALLIED KOMMANDATURA FOR A ROUTINE REVIEW THAT WOULD PROVIDE OPPORTUNITY FOR ISSUANCE OF OUR BK/L, A COUNCIL REGULATION MIGHT BE ISSUED RELATIVELY QUICKLY AND WOULD GIVE APPEARANCE OF BEING DIRECTLY APPLICABLE IN BERLIN UNDER EC LAW FROM MOMENT OF ITS ISSUANCE. WE MIGHT thus NEED TO RESPOND RATHER MORE QUICKLY WITH OUR ALLIED AUTHORIZATION IF WE WISH TO MAKE PROPHYLACTIC POINT THAT EC ACTION IS SUBJECT TO RESERVED ALLIES RIGHTS AND RESPONSIBILITIES.

3. WE MIGHT ALSO NEED TO THINK THROUGH AGAIN QUESTION OF WHETHER ALLIED AUTHORIZING STATEMENT SHOULD BE BK/L OR BK/O. WE FAVORED FORMER IF EC DECISION WAS TO BE IMPLEMENTED BY A CONVENTION AMENDING TREATY OF ROME BECAUSE THAT WAS FORMULA USED BY ALLIES IN 1957 AND 1976 WHEN CONSTITUENT COMMUNITY TREATIES THEMSELVES WERE APPROVED FOR EXTENSION TO CITY. ON OTHER HAND, IN CLOSEST ANALOGOUS CASE TO A COUNCIL REGULATION ON DIRECT ELECTIONS -- DECISION ON VOCATIONAL CENTER -- WE CHOSE BK/O ROUTE. BK/O WOULD PROBABLY BE SOMEWHAT LESS NECESSARY THIS TIME SINCE DECISION WOULD BE BASED NOT ON ARTICLE 235 OF TREATY OF ROME, THE OPEN-ENDED ARTICLE GIVING COUNCIL POWER TO TAKE MEASURES NOT SPECIFICALLY PROVIDED FOR IN SOME OTHER ARTICLE OF TREATY, BUT ON ARTICLE 138, WHICH ENVISAGES AN EVENTUAL COUNCIL DECISION ON DIRECT ELECTION OF PARLIAMENT AND WHICH ALLIES WERE AWARE OF WHEN THEY APPROVED EXTENSION OF TREATY OF ROME 19 YEARS AGO. FOR CONSISTENCY'S CONFIDENTIAL

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PAGE 03 USBERL 01472 161203Z

SAKE, HOWEVER, WE WOULD SLIGHTLY FAVOR USE OF BK/O. WE PROVIDE BELOW OUR SUGGESTED REDRAFT OF TEXT CONTAINED REF C IN BK/O FORM FOR POSSIBLE USE IN EVENT EC DECIDES TO IMPLEMENT DIRECT ELECTION DECISION BY COUNCIL REGULATION. IF DRAFT ALONG THESE LINES WAS ADOPTED, INCIDENTALLY, WE COULD PROBABLY AVOID EXTRA STEP OF ISSUING SIMULTANEOUS BK/L WHICH WE TOOK IN VOCATIONAL CENTER CASE.

4. BEGIN TEXT:

SUBJECT: ELECTIONS TO THE EUROPEAN PARLIAMENT
THE ALLIED KOMMANDATURA, HAVING RECEIVED REGULATION
(EEC) NO. (BLANK) OF THE COUNCIL OF THE EUROPEAN
COMMUNITIES OF (BLANK) DATE, WHICH WAS SUBMITTED TO IT
IN ACCORDANCE WITH THE ESTABLISHED PROCEDURES, HAS
NO OBJECTION TO THE APPLICATION TO BERLIN OF THIS
REGULATION TO THE EXTENT COMPATIBLE WITH ALLIED RIGHTS
AND RESPONSIBILITIES, ON THE UNDERSTANDING THAT THE
BERLIN HOUSE OF REPRESENTATIVES WILL SELECT THE
REPRESENTATIVES FOR THOSE SEATS WHICH FALL TO BERLIN
WITHIN THE QUOTA SET FOR THE FEDERAL REPUBLIC OF
GERMANY. APPLICATION OF THE REGULATION TO BERLIN
DOES NOT IMPLY THAT ALLIED LEGISLATION AND IN PARTICULAR
BK/L(57)44 AND BK/L(65)51 HAVE BEEN REPEALED OR
MODIFIED IN ANY WAY. THE REGULATION MAY ACCORDINGLY
BE PUBLISHED IN THE GESETZUNDVERORDNUNGSBLATT FUER
BERLIN
END TEXT.

5. WE WILL BE CIRCULATING THIS REDRAFT FOR ALLIED
MISSION VIEWS BUT WISHED TO MAKE IT AVAILABLE TO
EMBASSY FOR CONSIDERATION IN EVENT COREPER DECISION
SHOULD REQUIRE EARLY ACTION IN BONN GROUP.
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